

GOVERNANCE, RISK AND AUDIT COMMITTEE

Minutes of the meeting of the Governance, Risk and Audit Committee held on Thursday, 25 March 2021 at the remotely via Zoom at 3.00 pm

Committee

Members Present:

Mr J Rest (Chairman)	Mr S Penfold (Vice-Chairman)
Mr C Cushing	Mr H Blathwayt
Dr P Bütikofer	Mr P Fisher

Members also attending:

Mr P Heinrich (Observer)	Mr N Dixon (Observer)
Ms V Gay (Observer)	Mr R Kershaw (Observer)
Mr E Seward (Observer)	Mrs E Spagnola (Observer)
Mr T FitzPatrick (Observer)	Ms L Withington (Observer)

Officers in Attendance:

Democratic Services and Governance Officer - Scrutiny (DSGOS), Internal Audit Manager (IAM), Chief Technical Accountant (CTA), Chief Executive (CE), Assistant Director for Finance, Assets, Legal & Monitoring Officer (MO), Internal Auditor (IA), HR Manager (HRM) and Democratic Services Manager (DSM)

73 TO RECEIVE APOLOGIES FOR ABSENCE

None received.

74 SUBSTITUTES

None.

75 DECLARATIONS OF INTEREST

Cllr S Penfold declared that he had been a Member of the Cromer Tennis Hub Project Board from February 2018.

Cllr J Rest declared that he had been a Member of the Cromer Tennis Hub Project Board.

76 EXCLUSION OF THE PRESS AND PUBLIC

The Chairman noted that discussion of the full audit report would require that the meeting be moved into private business.

It was proposed by Cllr J Rest and seconded by Cllr P Fisher to exclude the press and public.

RESOLVED

That under section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of part 1 of schedule 12A (as amended) to the Act.

77 CROMER SPORTS HUB PROJECT - AUDIT REPORT

The Chairman noted that the Committee had met on 9th March to discuss and note the non-exempt appendices of the full report in public, and had now received the full exempt report for discussion. He stated that the loss of public money was a serious concern and he hoped that Members could now be confident of the lessons learnt, and that recommendations could be made, if necessary, to avoid similar occurrences in the future.

Questions and Discussion

- i. Cllr S Penfold referred to project governance and inception, noted his concerns and asked what the auditors would have expected at this stage of the project. The IA replied that in terms of governance, she would have expected a clear project lead and terms of reference to be identified, as well as clarity on how the project would be reported to Committees, and who had responsibility for project related decisions. She added that the Project Board also required greater clarity of its role in relation to the oversight and management of the project. The IA referred to project inception, and stated that she would have expected minutes to outline the clear benefits of the project over alternate projects that could have been considered. She added that the initial report would have also benefitted from greater scrutiny.
- ii. Cllr S Penfold asked Cllr T FitzPatrick whether he had regrets regarding the project's inception. Cllr T Fitzpatrick replied that at the outset there had been a project initiation document prepared by officers, as well as a report prepared by external consultants, which had been reviewed by the Overview and Scrutiny Committee, prior to Cabinet approval. He added that the project also sought to provide benefits for the wider District, beyond Cromer. It was noted that following Cabinet's recommendation for approval, the project had been approved by Full Council, at which point it progressed to the Project Board, and at this time, both the Tennis Club and Cromer Academy were supportive. Cllr T FitzPatrick stated that whilst he ceased to be Leader of the Council as the project progressed, he did regret that the Project Board's Terms of Reference had not been more clearly defined, which could have helped when issues began arise. He added that he also regretted that concerns regarding the Tennis Club's growing disapproval of the project had not been raised earlier with the Project Board. Cllr T FitzPatrick stated that despite the withdrawal of LTA funding, the project had continued, though there had been a breakdown in communication between the Project Board, Cabinet and Council.
- iii. Cllr S Penfold noted that during the project's inception, there was no record of a full discussion on the feasibility study at Cabinet, and he did not therefore feel it was fair to place full blame on the Project Board. Cllr T Fitzpatrick replied that he was not placing full blame on the Project Board, and noted his recollection that a presentation was provided to Councillors, which had caused the majority of discussion to take place as pre-scrutiny, outside of Cabinet. He added that the withdrawal of LTA funding and issues

with the Tennis Club took place well into the project, and could not have been foreseen during its inception.

- iv. Cllr S Penfold referred to significant conflicts of interest and asked why these were not detailed within the report. The IA replied that these were not included as full details were available in public minutes, and provided an overview of the interests declared. Cllr S Penfold asked whether there was a record of any concerns raised regarding the conflicts of interest, to which the IA replied that there was no record of mitigation actions, or concern raised.
- v. Cllr C Cushing referred to funds spent in February and August 2019, and noted that significant expenditure had continued after the withdrawal of LTA funding, and asked why this was not addressed in the business case. The IA replied that the decision to continue the project with NNDC providing full funding was taken in February 2019. She added that Members had agreed that if the Council Leader, relevant Portfolio Holder, S151 Officer, and Chief Executive still agreed that the project represented good value for money, then it should continue. Cllr C Cushing stated that the report contained little information on why the project had been stopped, and asked what advice had been provided by officers to influence this decision. The IA replied that a report had gone to Cabinet which raised concerns that the land swap agreement could not be completed. She added that the report suggested that continuing the project would have required legal action, and was therefore not advisable. Cllr C Cushing noted that concerns had been raised by the Tennis Club in November 2018, though the project was still considered good value for money in February 2019, and asked whether there was any evidence of concerns raised by Cabinet. The IA replied that at the February Cabinet meeting, officers had asked whether the project could be paused to allow time for further consideration, though Members had proceeded on the basis that the project still represented good value for money.
- vi. Cllr C Cushing noted that the decision to stop the project had been taken by Cabinet on 23rd August 2019, and asked whether there had been any request for external advice on the matter. The IA replied that external advice had been taken on several options, which included an option to pursue the signing of the land swap agreement, that would likely have resulted in legal action. The Chairman asked whether there was evidence of this, to which the IA replied there was evidence that external legal advice had been taken, though this evidence was not contained within the audit report.
- vii. Cllr H Blathwayt referred to the placement of the steelwork order, and asked whether this had taken place before or after the 15th April 2019. The IA replied that she was unsure of the exact date but would confirm via a written reply. Cllr H Blathwayt requested that emails regarding the steelworks be shared with Members, and asked whether the Council was still paying for storage of the steelworks. The IA confirmed that the Council had paid for storage until July 2019. Cllr H Blathwayt whether the steelworks order had been carried out in consultation with Members, to which the IA stated that she would provide a written answer. The CE added that in principal, once a project had been approved by Members, officers would have the authority to approve expenditure.
- viii. Cllr P Butikofer referred to enabling works completed at financial risk to the Council, and asked if there were any examples. The IA replied that the demolition of the school swimming pool to create a car park was a primary

example, with timings given as justification when the decision to proceed was made by the Project Board. She added that trees had also been felled without the land swap in place. The approval process of these actions was discussed.

- ix. Cllr P Fisher referred to the Sustainable Communities Fund, and noted that a lack of consultation and supporting information often resulted in bids being unsuccessful. He noted that the Council's application for LTA funding had also lacked necessary information, and asked whether there was any evidence that the withdrawal of funding could have been attributed to this. The IA replied that the reason the LTA gave for withdrawal of funding, was that they had reconsidered their national priorities. She added that the bid being incomplete was not referenced, and that there was no evidence that the Project Board Members had been made aware that the bid was incomplete. The IA stated that this was why completion of critical milestones had been suggested as a recommendation.
- x. The Chairman referred to the limited number of contractors used, and asked whether there was any evidence to explain this. The IA replied that exemption forms were completed and signed off in accordance with the constitution, which suggested that the contractor used had experience of working with the Council, and the necessary experience required. In response to a question from the Chairman, the IA outlined the concerns raised in relation to the exemptions and explained how they presented a risk to the Council.
- xi. Cllr V Gay referred to a statement in the report regarding the nature of Project Board meetings, and asked whether the auditors had concluded that there was little opportunity to check and challenge concerns at the meetings. The IA replied that she had been told that this was the case, and that the minutes supported these comments.
- xii. Cllr E Seward referred to an email from the Council Leader that stated ongoing support for the project despite concerns, as a result of it being agreed by Full Council. He then sought clarification on whether the auditors has seen this email, and whether his recollection was correct. The IA confirmed that they did have a copy of the email, and that the Leader had noted their authority to continue the project following the decision made by Full Council, so long as it continued to provide value for money. Cllr E Seward asked for the date of the first email that requested the project be placed on hold, to which the IA confirmed was the 31st May. Cllr E Seward referred to the nature of Project Board meetings and stated it was clear that there needed to be more robust discussion at these meetings, to which the IA replied that she fully supported recommendations to clarify the role of Project Boards and their Members. She added that she was glad to see that the CDU had been established to oversee project governance.
- xiii. Cllr N Dixon referred to the advice given in advance of the decision to cancel the project, and asked whether this advice had been shared with wider Cabinet Members. The IA replied that in her recollection the advice had been shared with all Cabinet Members, though this would be confirmed by written reply.
- xiv. Cllr T FitzPatrick stated that the project initiation document had been prepared in October 2017 following discussions with the LTA, followed by an

independent feasibility report that was pre-scrutinised, prior to approval by Cabinet and Full Council. He added that the Council was right to take the opportunity to develop the project at the time, though it was unfortunate that issues had arisen that could not be resolved.

- xv. The CE stated that the report was a learning opportunity for the Council, and asked whether Committee Members were satisfied that the management recommendations contained within were robust enough to address the findings and concerns. He added that it was right for the Council to remain ambitious, so long as the correct checks and balances were in place to ensure that projects could be completed with minimal risk.
- xvi. Cllr C Cushing noted that he had worked in project management for considerable time, and stated that the implementation of the gating procedure was of fundamental importance, to ensure that funds were not spent in advance of milestones being met.
- xvii. Cllr H Blathwayt stated that the business case for the project had always had issues, such as the unrealistic usage levels. He added that it was important to address the fact that circumstances could change throughout a project, and the implementation of a gating procedure should address this.
- xviii. Cllr P Fisher stated that issues had been raised with engagement, and noted that this also appeared to be an issue within the Tennis Club.
- xix. Cllr S Penfold asked to place on record his thanks to the auditors, then sought to improve the existing management recommendations with three suggestions. The first requested that the Constitution Working Party (CWP) review the use of procurement exemption certificates, and the second was to request that the CWP widen the definition for conflicts of interest. The third suggestion requested that Cabinet review its new project governance framework, to consider whether its checks and balances were robust enough to mitigate the concerns raised, or whether they needed strengthening.
- xx. It was confirmed following a question from Cllr N Dixon, that once written replies had been received, it would be for the Committee to decide whether further discussion of the report was necessary.
- xxi. The DSM noted that the first two suggestions from Cllr S Penfold to improve the existing recommendations were already being progressed with the CWP and Standards Committee, respectively. Cllr S Penfold accepted that the first two proposals had already been addressed, and suggested that the final proposal for Cabinet to reconsider its project governance framework should remain as a potential recommendation. It was noted that the project governance framework had been reviewed in draft form by GRAC, though could be considered again, if necessary.
- xxii. The IAM highlighted the assurances that would be given going forward, and noted that GRAC would receive updates on the implementation of recommendations at future meetings, until they had been completed. She added that future audit work could also be arranged to seek assurances that processes had been changed to adequately address the concerns raised.
- xxiii. Cllr E Seward referred to the potential recommendation for Cabinet to review the project governance framework, and suggested that if all Cabinet

Members were given the opportunity to review the full audit report, it would aid this process.

- xxiv. Cllr S Penfold proposed that all Cabinet Members be given the opportunity to review the full audit report, then consider whether the project governance framework needed to be strengthened. Cllr H Blathwayt seconded the proposal.

RESOLVED

- 1. To recommend that all members of Cabinet receive a copy of the final report.**
- 2. To recommend that Cabinet reviews the Council's project governance framework to ensure that it is robust enough to address the concerns raised by the assurance review and by the Governance, Risk & Audit Committee.**

The meeting ended at 4.23 pm.

Chairman